SIKKIM

GOVERNMENT GAZETTE

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GOVERNMENT OF SIKKIM
EXCISE (ABKARI) DEPARTMENT
GANGTOK

No.16/Ex(Abk) **Dated:15.2.2005**

NOTIFICATION

In exercise of power conferred by clause (b) and (f) of section 77 read with section 13 of Sikkim Excise Act, 1992 (2 of 1992) and in supersession of Sikkim Excise (Indian Made Foreign Liquor Imported from Other States Licencing of Warehouses) Rules, 1999 the State Government hereby makes the following rules namely:-

CHAPTER - I
PRELIMINARY

Short title, extent and commencement.

1. (1) These may be called the Sikkim Excise (Indian Made Foreign Liquor Imported from the Other States) Licencing of Warehouses Rules, 2005.
(2) They extend to the whole of Sikkim.
(3) They shall come into force on the date of their publication in the Official Gazette.

Definitions

2. (1) In these rules, unless the context otherwise requires;
(a) "Act" means the Sikkim Excise Act, 1992;
(b) "Controlling Officer" means an Excise Officer duly authorized by the Commissioner of Excise for the overall supervision of the warehouse;
(c) "duty" means excise duty or countervailing duty as defined in clause (g) of section 2 of the Act;
(d) "duty paid imported foreign liquor" means liquor of all kinds imported into India on which duty leviable under the Indian Tariff Act, 1934 or the Customs Act, 1962 has been paid;
(e) "duty paid Indian Made Foreign Liquor" means Indian made foreign liquor on which excise duty or as the case may be, countervailing

duty under the Act has been paid and includes Indian Made Foreign Liquor to be brought into the State of Sikkim;

(f) "Excise Officer" means the Additional Commissioner or Joint Commissioner or Deputy Commissioner or Assistant Commissioner or any other officer appointed or invested with the powers under section 5 of the Act.

(g) "Excise verification certificate" means certificate duly signed by the Inspector/Sub-Inspector/Assistant Sub- Inspector authorized by the Commissioner after due verification of the consignment of liquor imported into the State and countersigned by Commissioner of Excise or any other Officer duly authorized by the Commissioner;

(h) "form" means a form appended to these rules;

(i) "foreign liquor" means –

(i) brandy, whisky, rum, vodka, gin, liqueurs, cordials, bitters and wines or mixture containing any of the liquor aforesaid;

(ii) Spirit, sophisticated or compounded so as to resemble in colour and flavour of brandy, whisky, rum, vodka, gin, liqueurs, cordials, bitters or other similar potable alcoholic preparations;

(iii) spirit, including rectified spirit intended to be used for the manufacture of brandy, whisky, rum, vodka gin, squash, cordials, bitters, or other similar potable alcoholic preparation; and

(iv) beer, ale, porter, cider, sherry and other similar or potable fermented liqueurs :

Provided that the expression " portable foreign liquor" shall not include unless there is anything repugnant in the subject or the context, the spirit including rectified spirit mentioned in the item

(iii) aforesaid;

(j) "import pass" includes a requisition or indent countersigned by the Commissioner or Additional Commissioner or Joint Commissioner or Deputy Commissioner or Assistant Commissioner of the importing place or the place of export, as the case may be;

(k) "place of import" means the place in the State of Sikkim in which foreign liquor is imported;

(l) "transport" means to remove from one place to another within Sikkim;

(m) "verification" means –

(i) examining the seals of the casks, drums or other receptacles forming the consignment of intoxicant to verify that they are not tampered with during transit;

(ii) ascertaining that the number and marks on the cask, drums or packages tally with those shown on the reverse of the permit;

(iii) ascertaining that the quantity transported tallies with quantity mentioned in the permit and includes in the case of spirit the strength of which can be ascertained by the hydrometer examining the contents by drawing samples from the cask or drums or package in other to find out that the strength of the spirit correspond to that shown on the reverse of the permit; and

(iv) satisfying that the duty or fees required to be paid under the Act or rules thereunder have been correctly levied and credited;

(i) "Warehouse" means premises wherein excisable article is deposited and kept after payment of duty and Import Pass Fee and any other levies as may be notified from time to time ;

(j) "Warehouse Officer" means Inspector/Sub-Inspector/Assistant Sub-Inspector, authorized by the Commissioner of Excise to supervise the day to day activities of the warehouse.

(2) Words and expression not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

CHAPTER - II
GRANT OF LICENCE

Application for licence.

3. Any individual, firm and company registered under the Registration of Companies Act,Sikkim,1961, desiring to obtain the Excise Licence to import Indian made foreign liquors from other States shall apply to the Commissioner of Excise in Form I appended to these rules within first week of March so that required formalities are completed and the provisional licence could be issued as per the rule 4 (2) within the last week of month. The cost of Form I shall be Rs. 500/-(Rupees five hundred only).

Scrutiny of applications and grant of provisional licence .

4. (i) On receipt of the application in Form I as referred to in rule 3, the particulars and other information as furnished by the applicant shall be verified and scrutinized by the officers authorized by the Commissioner of Excise. Thereafter, the application shall be recommended to the Government by the Commissioner of Excise for consideration of the application for the grant of Provisional Licence. When the case cannot be recommended by the Commissioner of Excise, he shall record his observations in writing and communicate the same to the Government and thereafter to the applicant.

(2) The provisional licence shall be issued in Form II appended to these rules.

Scrutiny of applications for grant of licence .

5. Before the licence is granted, the particulars and other informations as furnished by the applicant shall be verified and scrutinized by the officer authorized by the Commissioner of Excise.

Grant of licence .

6. After completing the formalities as prescribed in Form II , the applicant shall apply in Form III appended to these rules for the grant of licence. The licensee shall also provide sample of liquors (two bottles of 750. ml each) proposed to be imported with proper labels affixed and its seals intact.

Grant of licence .

7. On receipt of the application in Form III as referred to in rule 6, the procedure as prescribed in the rule 4 shall be followed and Licence shall be granted to the applicant in Form IV.

Tenure of Licence

8. (1) The tenure of licence shall be for a period of one years commencing from 01.04.2005.

(2) The licences granted prior to commencement of these rules shall stand withdrawn.

Terms and conditions of the Licence .

10. Terms and conditions of the licence shall be as follows:-(1) The licensee shall pay annual licence fee amounting to Rs. 25,000/-(Rupees twenty five thousand only) and security deposit of equivalent amount and obtain the licence in Form IV.

(2) The licence shall be renewed during the last week of March every year after the payment of annual licence fee amounting to Rs.25,000/-(Rupees twenty five thousand only). The renewal of the Excise licence can be denied in case of any violation of the terms and conditions laid down in these rules.

(3) Only bonafide resident of the State are eligible to obtain the licence. The applicant should not be in possession of any type of Excise Licence issued by the Commissioner of Excise. He should also not be convicted by the court of law or criminal offences including the offences under the Sikkim Excise Act, 1992. The applicant should not be a minor.

(4) The licensee shall import the liquor as per the provisions made under Chapter II of the Sikkim Foreign (Import, Export and Transport) Rules, 1993.

(5) For the deposit of liquors by the licensee, he shall be required to get the warehouse registered with the Department of Excise. The licensee can have more than one such warehouse as per the requirement and need. For every warehouse the licensee shall pay registration fee of Rs. 10,000/- (Rupees Ten thousand only) per annum. The specification of the warehouse shall be as under:-

(a) There shall be only one point for entry and exit.

(b) The location of the warehouse shall be such that there is easy flow of traffic or entry, exit and the movement of vehicular and pedestrians outside the warehouse premises.

(c) The structure of the warehouse should be such that it is safe and secured. It should be well ventilated and should be equipped with fire fighting equipments.

(d) The storage capacity of the warehouse should be such that it should be able to store minimum of 1000 cases of MFL/Beer.

(6) The licensee shall operate the business himself or through his authorized agents/managers. In case of operation of his business through agents/managers, the licensee is required to furnish the bio-data with 4(four) numbers of specimen signatures and 3(three) copies of recent passport size photographs duly attested by the licensee to the Commissioner Excise.

(7) Sub-letting of the licence in any manner shall not be allowed.

(8) The licensee shall carry out his business only with the sub- dealerof liquor licenced under the Sikkim Excise (Indian Made Foreign Liquor and Country Liquor manufacture in Sikkim)Licencing of Warehouses, Rules,2004 if he desires to do so and the retailers of liquors holding valid excise licence issued under the authorization of the Commissioner of Excise.

(9) The licensee shall not deposit any stock of liquor in his warehouse other than the brands of liquors for which the licence is issued.

(10) The warehouse officer shall issue the transport pass in respect of the sale of liquor to the retailers either by the licensee or through his authorized signatory as per Form V appended to these rules. The warehouse officer shall handover the original copy to the retailer. The duplicate copy shall be sent to the Excise Officer and the triplicate copy shall be retained by the warehouse officer.

(11) No exemption of duty shall be allowed on the loss of liquor either in transit or in the warehouse.

(12) The licensee is required to maintain proper records in Form VI appended to these rules. The licensee shall furnish monthly returns to the warehouse officer, controlling officer and to the Commissioner, Excise in Form VI and VII within the first week of every month.

(13) The licensee shall operate the warehouse from 9 a.m. to 4 p.m. strictly. However, on Sunday and Dry Days as declared and notified by the Commissioner of Excise, licensee shall not operate his business.

(14) The licensee shall keep the Commissioner of Excise, Controlling Officer and the Warehouse Officer informed immediately on the arrival of liquors to its destination. The consignment of liquor shall be unloaded in the warehouse in the presence of the warehouse officer or any other officer/excise staff authorized by the Commissioner of Excise.

(15) The licensee shall provide the usual trade margin to the sub-dealer and the retailers.

(16) The conditions which are not prescribed in these rules but provided under the Sikkim Excise Act, 1992 shall be applicable.

(17) The infringement of any of the above conditions shall render the licensee liable for cancellation of his licence and forfeiture of the security deposit.

(18) The terms and conditions of the licence may be amended wholly or partly as the Government may deem it expedient and necessary .

PRINCIPAL SECRETARY
EXCISE (ABK) DEPARTMENT
GOVERNMENT OF SIKKIM

FORM I
(See rule 3)
APPLICATION FOR " PROVISIONAL LICENCE"

Photo

To,

The Commissioner,
Excise (ABK) Department,
Government of Sikkim,
Gangtok.

Sir,

I beg to apply for provisional licence to import Indian Made Foreign Liquor from other States.

My particulars and other details are enclosed as per Annexure I for your kind consideration please.

Thanking you.

Yours faithfully

Signature

Name .....
Address .....
.....

Date :
Place:

Documents enclosed as per Annexure I

1. (Item 3)
2. (Item 5)
3. (Item 7)
4. (Item 8)
5. (Item 9)

ENCLOSURE – I OF FORM – I

1. Name of the Applicant/firm/company
2. Address.
3. whether the applicant is bonafide resident of the State (supporting document issued by the competent authority to be furnished).
4. Type of business being undertaken presently
5. If the applicant is a proprietor, partner or shareholder of firm/company, Firm Registration/ Company Registration Certificate to be furnished along with Income Tax and Sales Tax clearance.
6. Whether the applicant interested to deal with (a) IMFL (b) Beer (c) both.
7. If the applicant is already in possession of required accommodation, its location, layout plan in scale to be furnished.
8. If the accommodation for the warehouse is to be acquired on rent/lease, its location, a copy of NOC with the landlord to be furnished.
9. Financial Status :
   (a) Name of the Banker
   (b) Banker's report on the financial status to be furnished from any Nationalised Bank operating the State.
10. If the applicant has any experience in liquor trade. If so background details to be furnished. If the applicant is not having personal experience, it is to be explained as to how the applicant proposes to manage the business.

DECLARATION

I declare that all the informations and details as furnished above are true and correct.

Signature of the Applicant

Date :

Place :

FORM II

(See rule 4(2)

(PROVISIONAL LICENCE)

No...../Ex(Abk) **dated:**

To,

.....

.....

The Department has considered your request for "Provisional Licence" to import and whole sale Indian Made Foreign Liquor manufactured in the other States.

This licence is valid for 03 (three) months only. Meanwhile your are directed to undergo a Memorandum of Understanding with the manufacturer of IMFL/Beer and submit a copy of the same to the Commissioner of Excise, after which your case will be taken up for issue of licence to import Indian Made Foreign Liquor from other States under the rule 4 of the Sikkim Excise (Indian Made Foreign Liquor imported from other States) licencing of warehouse Rule, 1999.

Commissioner

Excise(Abk) Department

FORM III

(See rule 6)

APPLICATION FOR LICENCE

To,

The Commissioner,
Excise (ABK) Department,
Government of Sikkim,
Gangtok.

Sir,

I beg to apply for licence to import Indian Made Foreign Liquor manufactured in other States.

1. Name of the applicant / firm/ company

2. Address

3. Name of the manufacture of IMFL/ Beer and the brands intended for import

Submitted for its kind consideration please.

Thanking you.

Yours faithfully

Signature
Name
Address

Place:

Date:

Copy of Memorandum of Understanding to be enclosed.

FORM IV

(See rule 7 & 8 (1))

LICENCE FOR IMPORT, WAREHOUSING AND WHOLE SALE OF INDIAN MADE FOREIGN LIQUORS IMPORTED FROM OTHERS STATES

Licence No...../Ex(Abk) **Dated:.....**

Licence is hereby granted under the provision of Sikkim Excise Act, 1992 and the rules, regulations and orders made thereunder to M/s..... to import, warehouse and wholesale of Indian Made Foreign Liquor manufactured in other States

The Licensee shall deal with the products of the following manufactures only:

1.

2.

3.

4.

The Licensee shall have warehouse in the following locations

1.

2.

3.

4.

The Licensee shall abide by the terms & conditions as laid down in the Sikkim Excise (Indian Made Foreign Liquor Imported from other States) Licencing of Warehouse Rules, 2004.

COMMISSIONER
EXCISE(ABK) DEPARTMENT

PLACE:

DATE:

(SEAL)

DETAILS OF LICENCE FEE, SECURITY AND GODOWN REGISTRATION FEE.

Sr. No.	Date of Renewal	Period of Renewal	Licence Fee	Challan No. & Date	Godown Regd. Fee	Challan No. & Date	Security Deposit No. & Date

Original/Duplicate/Triplicate

FORM V
(See rule 8(12)

TRANSPORT PASS

Permit No.

1. Name of the vendor :

2. Address:

3. Destination :

4. Validity of the Permit :

5. Details of Liquors Brands Name Quantity in cases

Signature of the vendor

Signature of the Warehouse Officer

FORM VI
(SEE RULE 7 (13)

Name of the distributor/sub distributor:-

Location of warehouse:

Monthly Statement of issue of Foreign Liquor for the Month of .....

Sl.No.	Name of sub distributor/retailer	Bill No. & date	T.P. & date	Brand Name	Qty in cases	Remarks

Counter signature of controlling Officer

Signature of Licensee/Authorised Signatory

FORM VII
(SEE RULE 10(12))

Name of the Licensee _____

Location of Warehouse _____

Monthly Statement of stock of Indian Made Foreign Liquor and Beer for the Month of_____

								Quantity			
Sl. No.	Bill No.	Name of the Retailer	Locality	Date	Brand Name	Opening Stock	Fresh Arrival	Total	Issue	Closing Balance	Remarks

Signature of Licensee/Authorised Signatory

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